



# Department of Justice

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## **NEW YORK FOOD COMPANY EXECUTIVE GUILTY OF MULTI-MILLION DOLLAR BID RIGGING, FRAUD, AND TAX CRIMES**

### **Enters Plea Agreement Calling For 63-78 Month Jail Term And \$2.2 Million In Restitution**

WASHINGTON, D.C. -- A former New York City food company executive pleaded guilty today to participating in multi-million dollar bid rigging, fraud, and tax conspiracies, the Department of Justice announced. Pursuant to a plea agreement, the parties will recommend that the executive receive a sentence of 63 to 78 months in prison and pay more than \$2.2 million in restitution to his victims.

Melvyn Merberg, of Manhattan, the former president of Queens, New York food distributor Jitney Ltd., today was charged in U.S. District Court in Manhattan with, and pleaded guilty to, participating in four separate schemes to rig bids on produce, dairy products, frozen vegetables, and other related items supplied to the New York City Department of Citywide Administrative Services (DCAS), the Nassau County (NY) Department of General Services, the Newark (NJ) Public Schools, and Odyssey House Inc., a New York based drug rehabilitation center.

Merberg was also charged with, and pleaded guilty to, one count of conspiring to defraud Odyssey House Inc. of more than \$1 million in a kickback and phony billing scheme, one count of conspiring to defraud approximately 147 other Jitney, Ltd. customers in a kickback and phony billing scheme, and one count of conspiring to violate various federal tax laws in connection with a multi-million dollar check-cashing scheme.

"This is a significant victory for the victims of Merberg's crimes," said John M. Nannes, Acting Assistant Attorney General in charge of the Department's Antitrust Division. "As this case demonstrates, the Antitrust Division will continue to work to ensure that criminals do not benefit from their illegal behavior."

Today's charges arose from an ongoing investigation by the Antitrust Division's New York Field Office of bid rigging, bribery, fraud, and tax-related offenses in the food distribution industry. To date, 30 individuals and 14 companies have been charged in connection with that investigation.

In July 2000, Merberg was arrested by FBI and IRS agents for conspiring to defraud Odyssey House. At that time, he was released on a \$1 million bond. On November 8, 2000, Merberg was indicted for his participation in four bid-rigging conspiracies, one conspiracy to defraud Odyssey House, one conspiracy to violate various federal tax laws, and obstruction of justice. That indictment will be dismissed after sentencing in today's case.

Jitney Ltd. and Merberg's spouse, Pamela Merberg, pleaded guilty to bid rigging, fraud, and tax charges in September 2000.

In September 1999, Aaron Lugo, the former director of operations at Odyssey House, pleaded guilty to bid rigging, fraud, and tax charges.

The New York City DCAS is the agency that conducts competitive bidding on behalf of other New York City entities, including those that run the public hospitals and jails. The Nassau County (NY) Department of General Services performs a similar function for Nassau County agencies. The 147 Jitney Ltd. customers victimized by the fraud were primarily not-for-profit social service organizations located in New York City, such as substance abuse treatment facilities, senior centers, and day care and Head Start programs.

Merberg is charged with four bid-rigging counts, which violate 15 U.S.C. § 1 and carries a maximum penalty of three years imprisonment and a \$350,000 fine per count; three conspiracy counts, which violate 18 U.S.C. § 371 and carries a maximum penalty of five years imprisonment and a \$250,000 fine per count. All of the maximum fines may be increased to twice the gain derived from the crime or twice the loss suffered by the victim of the crime, if either of those amounts is greater than the statutory maximum fine. The court will determine the appropriate sentences under the U.S. Sentencing Guidelines.

The ongoing investigation is being conducted by the Antitrust Division's New York Field Office, with the assistance of the Federal Bureau of Investigation and Internal Revenue Service Criminal Investigation.

Anyone with information concerning bid rigging, bribery, tax offenses, or fraud in the food distribution industry or concerning bid rigging on any government contract should contact the New York Field Office of the Antitrust Division at (212) 264-0679 or the New York Division of the FBI at (212) 384-3252.

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